

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Board on Universal)	CC Docket No. 96-45
Service)	

**REPLY COMMENTS OF IOWA TELECOMMUNICATIONS SERVICES, INC.
(D/B/A IOWA TELECOM)**

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December 14, 2004

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Iowa Telecommunications Services, Inc. (d/b/a Iowa Telecom) (“Iowa Telecom”) hereby submits the following Reply Comments in response to the Federal-State Joint Board on Universal Service’s (“Joint Board’s”) Public Notice seeking comment on certain of the Federal Communications Commission’s (“Commission’s”) rules relating to high-cost universal service support.¹

I. INTRODUCTION AND SUMMARY

Despite Iowa Telecom’s decidedly rural nature and its desire to deploy advanced services and its high costs of doing so, Iowa Telecom receives no high-cost support because it is trapped in the “rural” high-cost support program, which continues inappropriately to link eligibility solely to embedded costs. In response to the Joint Board’s request for comment regarding the future of high cost universal service support for rural carriers, Iowa Telecom recommended in its Comments that the current rules should be changed to provide more flexibility in the method

¹ *Federal-State Joint Board on Universal Service Seek Comment on Certain of the Commission’s Rules Relating to High-Cost Universal Service Support*, Public Notice, CC Docket No. 96-45, FCC 04J-2 (rel. Aug. 16, 2004)(“Notice”).

used to determine qualification for high-cost support in order to eliminate this unintended consequence.²

In particular, Iowa Telecom discussed how rural carriers such as Iowa Telecom, which for historical reasons have particularly low embedded costs but heightened future investment needs, are unable to qualify for support sufficient to provide for improved and advanced services – despite the fact that Iowa Telecom’s costs to deploy such services are at least as large, and probably larger, than those of carriers receiving high-cost support.³ Therefore, Iowa Telecom explained that rural incumbent local exchange carriers (“ILECs”), and particularly price cap rural ILECs such as Iowa Telecom, should be permitted to opt out of the rural high-cost support program and, instead, be allowed to participate in the non-rural high-cost support program.⁴

Iowa Telecom also explained that ILECs participating in the rural high-cost program also should be permitted the option of demonstrating their costs using forward-looking economic cost (“FLEC”), consistent with the method used by carriers participating in the non-rural fund, since, as acknowledged by the Commission, this methodology most accurately establishes the level of support needed for universal service.⁵ As a truly rural carrier, Iowa Telecom should not be deprived of support for providing and deploying affordable basic and advanced services to its customers.

In these Reply Comments, Iowa Telecom responds to initial comments criticizing the use of FLEC models by discussing how, at least in the case of Iowa Telecom, FLEC is a relevant basis for determining a rural ILEC’s eligibility for high-cost universal service support and how

² Iowa Telecom Comments at 7-13.

³ *Id.* at 3.

⁴ *Id.* at 7-13.

⁵ *Id.* at 5.

reasonably accurate FLEC models exist. Second, Iowa Telecom reiterates the need for Joint Board to recommend that the commission permit rural ILECs to opt out of the rural high-cost support program and, instead, participate in the non-rural high-cost support program. Finally, Iowa Telecom discusses the inappropriateness of a certain proposed myopic definitions of “rural” based exclusively on a carrier’s size.

II. ALL CARRIERS SHOULD HAVE THE OPTION OF DEMONSTRATING THEIR COSTS FOR HIGH-COST SUPPORT PURPOSES ON A FORWARD-LOOKING BASIS.

As discussed in its Comments, Iowa Telecom finds itself in a unique circumstance – because the prior owners of Iowa Telecom’s exchanges made relatively little investment in network infrastructure, the “book” or “embedded” costs inherited from the prior owners are too low to qualify Iowa Telecom for rural carrier support.⁶ At the same time, as a “rural” ILEC under Section 54.5 of the Commission’s rules,⁷ Iowa Telecom may be ineligible to participate in the non-rural program.⁸ This puts Iowa Telecom in an inequitable position because, although Iowa Telecom’s going-forward costs of providing telecommunications service, including advanced services, in rural areas that is comparable in quality and price to that offered in urban areas remain the same as other rural ILECs, Iowa Telecom’s relatively low embedded costs make it ineligible for high-cost rural program subsidies.

No commenter seems to dispute the fact that the Commission considers FLEC, if appropriately measured, to be the optimal manner in which an ILEC’s universal service eligibility and support should be determined. Some commenters argue that FLEC, no matter

⁶ *Id.* at 9.

⁷ 47 C.F.R. § 54.5.

⁸ Iowa Telecom discusses this matter further below, in Section III of these comments.

how accurately measured, is an inappropriate standard for universal service purposes – ultimately a request that the Commission abandon its initial conclusion in the *First Report & Order*.⁹

Critics of FLEC argue that the standard largely ignores past investment and makes unreasonable lower-cost assumptions regarding the future. These critics, however, do not appear to argue that an entirely FLEC-based approach accurately representing actual future investments would overstate a rural ILEC's cost. Instead, such critics argue that FLEC-based support, even if accurately determined, would provide a windfall to carriers not actually investing such support.¹⁰ As discussed in Iowa Telecom's Comments, it is not clear that any companies today use their high-cost support for the purposes envisioned by Section 254 of the Act.¹¹ Regardless, Iowa Telecom has explained that it believes sufficiently in the importance of this issue that it would support establishment of a rule requiring a demonstration that high-cost support has been invested in an appropriate manner, and thus is not used to subsidize rates to levels below those offered by providers of comparable service in areas that do not receive such support.¹²

The bulk of commenters discussing FLEC argue that the FLEC models are simply inaccurate, many arguing that such models often tend to understate rural ILECs' costs. These commenters base their critique on the FCC's synthesis model, particularly as it existed in mid-2000, when the Rural Task Force ("RTF") wrote White Paper 4.¹³ The vast majority of criticisms are merely repetitions of arguments from that publication and the RTF's September

⁹ *Federal-State Joint Board On Universal Service*, Report & Order, 12 FCC Rcd 8776, ¶ 26 (1997).

¹⁰ See, e.g., Texas Statewide Telephone Cooperative, Inc. Comments at 7, 9.

¹¹ Iowa Telecom Comments at 9-10.

¹² *Id.* at 10.

¹³ See Rural Task Force White Paper 4, "A Review of the FCC's Non-Rural Universal Service Fund Method and the Synthesis Model for Rural Telephone Companies," September 2000 (available at <<http://www.wutc.wa.gov/rtf>>).

2000 formal recommendation to the Joint Board.¹⁴ Others provide updated, yet similar, commentary.¹⁵

Most criticisms focus on the synthesis model's failure, at least at the time, to account for unique characteristics of rural networks and the resulting unreliable output. These include claims that customer information and road networks were outdated and inaccurate, lines-per-wire-center were overstated, route miles were inaccurate, assumptions regarding aerial versus underground plant were inappropriate, geographic coverage of wire centers was overestimated, assumptions regarding transport and host/remote/tandem switches were unreasonable, and that the model did/does not account for wireless penetration and competitive entry.

As discussed in Iowa Telecom's Comments, Iowa Telecom has created its own version of the FCC's synthesis model which accounts for all of the criticisms raised. This is largely achieved through using actual Iowa Telecom data, such as geocoded customer locations, actual line counts, actual ratios of plant type, etc.¹⁶ More recent FLEC models are able to reflect such changes. BellSouth, for example, has demonstrated in most, if not all, of its jurisdictions, that current models, such as Iowa Telecom's modified synthesis model, have the ability both to geocode the specific location of each increment of customer demand based on the service

¹⁴ See, e.g., Alexicon Telecommunications Consulting Comments at 6-13, Fairpoint Communications Comments at 10-14, Fred Williamson & Associates, Inc. Comments at 12-16, TDS Telecommunications Corp. Comments at 7-10. See *Federal-State Joint Board on Universal Service*, Rural Task Force Recommendation, 16 FCC Rcd 6165, ¶¶ 17-18 (2000) ("RTF Recommendation"). For the sake of simplicity, for comments repeating RTF arguments, these Reply Comments will cite only to the relevant RTF document.

¹⁵ See, e.g., GVNW Consulting, Inc. ("GVNW") Comments at 12-13.

¹⁶ A number of commenters acknowledge the value of using carrier-specific data when applying FLEC models to rural carriers. See, e.g., National Association of State Utility Consumer Advocates ("NASUCA") Comments at 29-30, Western Wireless Corporation at 23-27.

address(es) associated with each customer account and to constrain network paths to follow public thoroughfares both within the boundaries of each specific study exchange.¹⁷

Iowa Telecom does not seek to enter into a debate over specific FLEC model specifications at this time, but merely respectfully requests that the Joint Board recognize that a FLEC model reflecting accurate carrier-specific data, such as geocoding of customer locations and other geographic data, is an acceptable means by which a mid-sized carrier's eligibility for high-cost universal support should be determined.¹⁸ The details of Iowa Telecom's model would, of course, be discussed in full detail upon filing. At such time, the Commission or the Iowa Utilities Board will be able to consider the appropriateness of Iowa Telecom's model.

III. THE JOINT BOARD SHOULD RECOMMEND THAT THE COMMISSION PERMIT RURAL ILECS TO OPT OUT OF THE RURAL HIGH-COST SUPPORT PROGRAM AND, INSTEAD, PARTICIPATE IN THE NON-RURAL HIGH-COST SUPPORT PROGRAM.

As discussed in Iowa Telecom's Comments, the Commission created the rural high-cost regime for the benefit of rural carriers.¹⁹ Iowa also discussed how if a rural ILEC finds it in its and its customers' interest to be treated as a non-rural telephone company for the purpose of the

¹⁷ See, e.g., *Review of Cost Studies, Methodologies, Pricing Policies, and Cost Based Rates for Interconnection and Unbundling of BellSouth Telecommunications, Inc.'s Services*, Docket No. 14631-U (Ga. Pub. Serv. Comm'n Mar. 18, 2003); *Investigation into Pricing of Unbundled Network Elements*, Docket No. 990649-TP, Order No. PSC-01-1181-FOF-TP (Fla. Pub. Serv. Comm'n May 25, 2001); *General Proceeding to Determine Permanent Pricing for Unbundled Network Elements*, Docket No. P-100, Sub 133d (N.C. Utils. Comm'n Dec. 30, 2003).

¹⁸ To the extent the Commission wishes to develop its own FLEC models for particular categories of carriers, such as mid-sized rural ILECs, the Commission may wish to investigate manners in which Iowa Telecom's model can be made more generic. Several parties have raised potentially valuable suggestions that might be useful in properly customizing FLEC models to specific rural carriers, particularly with regard to carrier-specific customer locations and other inputs. See generally CTIA Comments at 18-26, Western Wireless Corp. Comments at 21-22.

¹⁹ Iowa Telecom Comments at 5.

Commission's high-cost support programs, however, the Commission should permit it to opt out of the rural high-cost support regime in favor of the non-rural regime.²⁰

As discussed below in the discussion of the definition of "rural," certain commenters actually suggest forcing mid-sized carriers such as Iowa Telecom to be part of the non-rural fund.²¹ While, as explained in Section IV, below, Iowa Telecom does not agree that otherwise rural carriers should be required to participate in the non-rural high-cost program, Iowa Telecom supports the lesser included request that carriers be permitted to participate in the non-rural high-cost program.

Especially with the changes recommended by Iowa Telecom, a FLEC model can be made to determine accurately Iowa Telecom's cost of providing service for high-cost eligibility and support purposes. To this extent, Iowa Telecom's elective participation in the non-rural high-cost program would neither distort economic incentives and outcomes in the non-rural high-cost program or, in particular, in Iowa Telecom's service territories.

IV. MID-SIZED CARRIERS SHOULD REMAIN ELIGIBLE FOR SUPPORT IN THE RURAL HIGH-COST PROGRAMS.

Once such forward-looking costs are reasonably determined, rural carriers such as Iowa Telecom should have the option of participating in the rural or non-rural program, using such forward-looking costs as the carriers' basis of support. Mid-sized rural carriers capable of making the appropriate cost demonstrations should not be arbitrarily excluded from rural high-cost programs.

²⁰ *Id.*

²¹ Verizon Comments at 8-16

In defining “rural,” the Joint Board and the Commission should not assume that the terms “rural” and “small” are synonymous. The adjective “rural” can be used to describe both service areas and telephone companies. Section 254 of the Communications Act of 1934, as amended (“Act”) uses “rural” solely in the context of service areas, not in differentiating carriers.²² The statutory universal service applicable principle to rural telecommunications policy focuses on the geographic location of consumers:

Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.²³

Given this consumer focus, it is clear that Congress intends for the Commission to direct its attention with regard to federal rural universal service policy to the carriers serving rural areas, not necessarily “rural carriers,” a classification that is not used in Section 254 with regard to high-cost policy. While, as a practical matter, “carriers serving rural areas” and “rural carriers” tend to describe the same carriers, Iowa Telecom believes that the point of emphasis is critical – the nature of the area served is at least as important as the characteristics of the carrier providing service. This is acknowledged by a number of commenters.²⁴

The Commission recognized this balance when it adopted the statutory definition of “rural telephone company” for use in defining rural carriers for the purposes of assigning a

²² See 47 U.S.C. §§ 254(b)(3), 254(g), 254(h)(1)(A).

²³ 47 U.S.C. § 254(b)(3)(emphasis added).

²⁴ See, e.g., ALLTEL Corporation Comments at 5-7 (relevance of teledensity), SureWest Communications Comments at 2-7 (discussing numerous anomalies in current classification scheme), Western Wireless Corporation Comments at 32 (“rural” is more relevant to geography than carriers).

carrier to a high-cost support regime. Two provisions of Section 3(37), Subsections 3(37)(B) and (C) focus on the inherent nature of the carrier (that is, size) to the exclusion of the nature of the area that the carrier serves.²⁵ These tests are based on the assumption that rural areas tend to be served by smaller carriers.²⁶ In contrast, Subsections 3(37)(A) and (D) focus exclusively on the nature of the area served.²⁷ Underlying this test is the assumption that rural areas tend not to include large concentrations of population, which, aside from conducting a detailed demographic and economic/occupational analysis, is probably the most expedient test of whether an area is rural. Both Congress and the Commission deliberately elected not to exclude larger carriers serving rural areas from the rural aspects of the Act.

In the *Notice*, the Joint Board acknowledges that the best application of the rural/non-rural dichotomy, as it applies to eligibility for particular high-cost universal service programs, reflects the underlying universal service policy goals.²⁸ To this end, many commenters have pointed out that the size of the rural high cost fund could be reduced if the definition of “rural” were artificially limited to the size of the carrier, ignoring the nature of the area that the carrier serves.²⁹ This would eliminate carriers such as Iowa Telecom, which despite the fact that it serves over 200,000 access lines, serves no communities with populations over than 16,000, and

²⁵ 47 U.S.C. § 153(37)(B)(“provides telephone exchange service, including exchange access, to fewer than 50,000 access lines”), (C)(“ provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines”).

²⁶ It does not necessarily logically flow that because higher-cost-per-line rural carriers tend to be small, small carriers tend to be higher-cost-per-line rural carriers.

²⁷ 47 U.S.C. §153(37)(A)(“provides common carrier service to any local exchange carrier study area that does not include either – (i) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Bureau of the Census; or (ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993”), (D)(“ has less than 15 percent of its access lines in communities of more than 50,000 on the date of enactment of the Telecommunications Act of 1996”).

²⁸ *Notice* at ¶ 9.

²⁹ See, e.g., CTIA Comments at 22-23, NASUCA Comments at 5-6, Verizon Comments at 8-16.

has a company-wide teledensity lower than 13 lines per square mile (less than one-third of the national rural average of 42.09). These low-density areas are unquestionably rural. Establishing eligibility criteria for the rural high-cost program based solely on the size of a carrier while completely ignoring the nature of the areas served by the carrier would indeed be myopic.

Those who seek to exclude larger carriers from rural support programs justify their positions with claims that larger carriers enjoy greater economies of scale and therefore have lower cost.³⁰ To take economies of scale into full account, such advocates argue that the test of “rural” should apply to the aggregation of all study areas (at least within the same state) served by the carrier.³¹ In its Comments, Iowa Telecom did not oppose such aggregation for eligibility testing, at least in contiguous study areas, so long as the Subsection (D) test is retained.³²

Carriers that continue to meet the standards of Subsection (A) or (D), however, should continue to be allowed to participate in rural universal service programs. Any economies of scale will be reflected in the carriers’ costs, a fact acknowledged by several commenters.³³ Further, if the Commission were also to measure a carrier’s cost based on the weighted average of relevant costs across aggregated study areas, a carrier’s ability to internally subsidize service to high-cost areas would be fully taken into account.

If the Joint Board and the Commission remain determined to reduce the size of the rural funds, they should do so through more general revisions to the rural eligibility standards such as through modest across-the-board adjustments to the 10,000-inhabitant figure in Section 37(A)(i), the 50,000 and 100,000 access line figures in Sections 37(B) and (C), and the 15 percent of

³⁰ See, e.g., Verizon Comments at 12.

³¹ See, e.g., Nextel Communications, Inc. Comments at 7-9, Verizon Comments at 5-8.

³² Iowa Telecom Comments at 12.

³³ See, e.g., ALLTEL Corporation Comments at 5-7, Sprint Corporation Comments at 5-6.

access lines or 50,000 inhabitant figures in Section 37(D). In contrast, deleting the independent definition of rural contained in Subsection (D) would arbitrarily disenfranchise particularly rural carriers that happen to be larger than other rural carriers yet provide service in the same types of high-cost areas.

V. CONCLUSION

The record developed so far in response to the *Notice* presents no reason to deny ILECs such as Iowa Telecom the ability to demonstrate eligibility for high-cost support based on appropriately-tailored FLEC models and, if anything, supports such a policy. Further, the Joint Board has been presented with no compelling reason why Iowa Telecom and other mid-sized ILECs should not continue to be classified as “rural” so long as they serve low-density areas. In light of this, Iowa Telecom respectfully requests that the Joint Board recommend that the Commission permit rural ILECs, particularly price cap carriers, to opt out of the rural high-cost support program and, instead, participate in the non-rural high-cost support program. In addition, the Joint Board should recommend that the Commission provide carriers participating in the rural high-cost program with the option of voluntarily demonstrating their costs using FLEC in rather than embedded costs using a FLEC methodology which incorporates the unique characteristics of rural carriers.

Respectfully submitted,

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Dated: December 14, 2004

CERTIFICATE OF SERVICE

I hereby certify that, on this 14th day of December 2004, I caused copies of the foregoing Reply Comments in response to the Federal-State Joint Board on Universal Service's Public Notice seeking comment on certain of the Federal Communications Commission's rules relating to high-cost universal service support to be served on the following parties by electronic mail.

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